

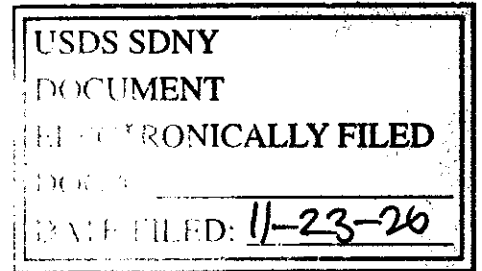
Morgan Lewis

Victoria Peng

Associate

+1.212.309.6366

victoria.peng@morganlewis.com



November 20, 2020

APPLICATION GRANTED
SO ORDERED

VIA ECF

Hon. John G. Koeltl
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

11/20/20
[Signature]
John G. Koeltl, U.S.D.J.

Re: Phyto Tech Corp. v. Givaudan SA, No. 1:19-cv-09033 (JGK)

Dear Judge Koeltl:

Pursuant to the Court's order dated November 13, 2020 (Dkt. No. 62), non-party BASF SE ("BASF") is filing today its letter motion objecting to the discovery sought in parties' joint submission dated November 12, 2020 (Dkt. No. 61) and Givaudan SA's ("Givaudan") letter motion regarding discovery dated October 27, 2020 (Dkt. No. 60).¹

Pursuant to the Protective Order entered by this Court (Dkt. No. 53, ¶ 11) and Section VI.A.2 of Your Honor's Individual Practices, BASF respectfully requests leave to file under seal certain confidential information contained in its letter motion, with a redacted public copy of the letter motion filed on the ECF system. BASF's letter motion will implicate confidential business and technical information contained within the Agreement sought in discovery. Courts in the Second Circuit routinely grant motions to seal to protect confidential commercial information and the interests of non-parties. See, e.g., *Refco Grp. Ltd., LLC v. Cantor Fitzgerald, L.P.*, No. 13-1654, 2015 WL 4298572, at *5 (S.D.N.Y. July 15, 2015) (granting motion to seal confidential information concerning a commercial agreement with non-party entity). Here, both grounds for sealing are present.

Moreover, this Court has previously permitted the parties to file under seal similar information in their pleadings. See, e.g. Givaudan's Answer to the Complaint (Dkt. No. 16, ¶¶ 57-59, 61); Phyto Tech Corp.'s Motion to Dismiss Defendant's Counterclaim (Dkt. No. 25, at 8 n.2).

¹ BASF is appearing for this limited purpose and not generally in the case. BASF does not waive the right to object to making a general appearance in this matter, or challenge personal jurisdiction or venue, for the purpose of this or other matters in this District.

Morgan, Lewis & Bockius LLP

101 Park Avenue
New York, NY 10178-0060
United States

☎ +1.212.309.6000
☎ +1.212.309.6001

Hon. John G. Koeltl
November 20, 2020
Page 2

Pending resolution of this application, BASF will file a public version of its letter motion on the ECF system with redactions of confidential information, and will serve all counsel of record with an unredacted copy of its letter motion.

Respectfully,

/s/ Victoria Peng
Victoria Peng

Counsel for Non-Party BASF SE

cc: Krista Vink Venegas, Esq. (Pro hac vice forthcoming)
All counsel of record (via ECF)